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## Appeal Decision

Site visit made on 1 February 2022 by C Glaister BSc (Hons)

**Decision by K Taylor BSc (Hons) PGDip MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 February 2022**

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**Appeal Ref: APP/T5150/D/21/3286200**

**31 Malvern Mews, London NW6 5PT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr S Wookey against the decision of the London Borough of Brent.
  - The application Ref 21/2233, dated 14 June 2021, was refused by notice dated 5 October 2021.
  - The development proposed is described as "Remodel and roof extension to existing Mews house to create 2-bedroom dwelling. Fenestration to front and side elevations redesigned and single storey side extension".
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matters

3. The Council have only found harm in relation to the single-storey side extension, boundary wall, and first-floor balcony. The Council has made it clear that the proposal otherwise replicates development which was approved as part of a separate application. The report will therefore focus on the single-storey side extension, boundary wall, and first-floor balcony.

### Main Issues

4. The main issues are:
  - the effect of the single-storey side extension and boundary wall on the living conditions of the occupiers of 87A/87B Malvern Road, with regard to light, outlook, and whether it would be overbearing or create a sense of enclosure.
  - the effect of the first-floor balcony on the living conditions of the occupiers of 89 Malvern Road, with regard to privacy and overlooking.
  - the effect of the first-floor balcony on the character and appearance of the dwelling, and the surrounding area.

## **Reasons for the Recommendation**

### *Living Conditions (87A/87B Malvern Road)*

5. The ground-floor of 87A/87B Malvern Road is raised above ground-level. The floor beneath it is partially below ground-level. All of the windows which serve the lower floor are clearly above-ground and reasonably sized, including the two on the rear elevation. Nos 87A/87B have a modest rear garden. The single-storey side extension and boundary wall would immediately adjoin the garden's western boundary.
6. The single-storey side extension would be as tall as the boundary wall, and they would together span the entire width of Nos 87A/87B's western site boundary. Due to their height, the single-storey side extension and the boundary wall in combination would be excessive. Together they would limit the light available to the windows on the lowest floor of Nos 87A/87B and restrict their outlook. A sense of enclosure and overbearing to the rear garden of Nos 87A/87B would also arise and cause harm to the living conditions of the occupiers. The distance present between this part of the development and the neighbouring windows would not be sufficient to mitigate the harm.
7. The Brent Design Guide SPD 1 (Nov 2018) (SPD1) suggests that where development adjoins private amenity/garden areas then the height of new development should normally be set below a line of 45 degrees at the garden edge, measured from a height of two metres. The site is located within a built-up area, with a tight urban grain, and some views would remain of the sky above the boundary wall from the windows on the lower floor of Nos 87A/87B. However, the height of the single-storey side extension and boundary wall in combination would still be excessive and cause harm. There is insufficient reason to suggest that in this instance the guidance should not be followed, and the extension and boundary wall would therefore fail to adhere to the advice provided in SPD1. A condition requiring that the east elevation wall of the extension and the boundary wall are painted or rendered white would not mitigate the harm that would arise.
8. For these reasons, the single-storey side extension and boundary wall would cause harm to the living conditions of the occupiers of 87A/87B Malvern Road, with regard to light, outlook, overbearing, and enclosure, and would fail to comply with Policy DMP 1 of the London Borough of Brent Local Plan Development Management Policies (November 2016) (DMP) which seeks to ensure development provides high levels of internal and external amenity.

### *Living Conditions (89 Malvern Road)*

9. The first-floor balcony would be situated on the northern elevation. To the north of the appeal site is the garden of 89 Malvern Road. There is an existing wall, of considerable height, between the northern boundary of the appeal site and No 89's garden.
10. Due to the position of the balcony on the first-floor, the height of the existing boundary wall, and the distance between the balcony and the garden of No 89, views of the garden from the balcony would be very limited. The extent to which overlooking would occur to the garden of this property would be insignificant, and the privacy of No 89 would not be harmed.

11. SPD1 suggests that whilst a distance of 9m should normally be kept between gardens and balconies, lesser distances may be acceptable where the impacts are mitigated. The individual circumstances of the site and its surroundings would mitigate the impact of the balcony with respect to overlooking and privacy for the occupiers of No 89. The balcony would therefore adhere to the guidance provided in SPD1.
12. For these reasons, the first-floor balcony would not harm the living conditions of the occupiers of 89 Malvern Road, with regard to privacy and overlooking. The first-floor balcony would therefore comply with Policy DMP 1 of the DMP.

#### *Character and Appearance*

13. Balconies are not common in the area. However, given the size of the proposed balcony, it would be a relatively subtle addition to the property. Its design would complement the property as a whole, including the alterations to the front of the property, the fenestration, and the roof extension. The balcony would represent high-quality development and respect the existing character and appearance of the area.
14. For these reasons, the first-floor balcony would not harm the character and appearance of the area. It would therefore comply with Policy DMP 1 of the DMP which also seeks to ensure development complements the locality.

#### **Other Matters**

15. The Council have not raised any issue with regard to the impact of the development on 69 Saltram Crescent. The balcony is relatively small and would share an indirect relationship with No 69. There is no reason to disagree with the Council in relation to the impact of the development on No 69, and the same view is reached in this recommendation.

#### **Conclusion and Recommendation**

16. Although no harm has been found with regard to the first-floor balcony in relation to the living conditions of neighbouring occupiers or the character and appearance of the area, this would not mitigate or outweigh the harm that would arise to the living conditions of 87A/87B Malvern Road with regard to the single-storey side extension and boundary wall. Based on the above, and having regard to all matters raised, I recommend that the appeal should be dismissed.

*C Glaister*

APPEAL PLANNING OFFICER

#### **Inspector's Decision**

17. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

*K Taylor*

INSPECTOR